

February 19, 2009

Mr John Smith  
1560 HAMILTON AV  
SAN JOSE CA 95125

Dear Mr Smith:

RE: File No. SP09-001/002

Your application, referenced above, for development on the east side of Meridian Avenue approximately 300 feet south of Hamilton Avenue (1580 HAMILTON AV) in the City of San Jose has undergone review for completeness and consistency with City policies and regulations. The purpose of this letter is to provide you with information as early as possible so you can appropriately respond to the issues identified below. While I continue to work on your application, your timely response will help expedite the process.

We have thoroughly evaluated your project based on the plans and information currently on file. Additional comments may be made at a later time when we receive revised plans and additional information. If more than one application is listed above, the information below pertains to all of them.

### COMPLETENESS OF YOUR APPLICATION

**Permit Streamlining Act.** Pursuant to the Permit Streamlining Act (Government Code Chapter 4.5 of Title 7), your application is not complete. Prior to a determination that the project application is complete, the following issues must be addressed. A brief list explaining why the application is incomplete follows, however, additional information will be provided later in this letter to further direct your next submittal.

1. **Supporting Documentation.** Information identified in our instructions for filing a Special Use Permit and Application for Environmental Clearance is missing from your submittal. Please provide supporting documentation as follows:
  - The only person to sign the affidavit of ownership is John Smith, who does not appear to be the property owner of any of the three properties in question. In order for these permits to move forward, wet signatures from the property owners must be on the application form.
2. **Plans.** Information identified in our application requirements is missing from your submittal. Please revise your plan set to include the indicated items.
  - Title Sheet – Please place the File number (SP09-001/SP09-002) on the Title Sheet.
  - Site Plan – Please correct the parking analysis shown on the Site Plan as detailed later in this letter.

- Floor Plans – Please provide a seating layout for the restaurant and fully dimension all areas of importance (dining areas, meeting rooms, etc.)

### COMPLIANCE WITH CITY ORDINANCES, POLICIES AND GUIDELINES

**Compliance.** This application has been reviewed for compliance with the following City Ordinances, Policies and guidelines. The remaining comments in this letter are based on this review.

- Zoning Ordinance

### CONFORMANCE WITH THE ZONING ORDINANCE

**Zoning Ordinance Conformance.** The project as proposed does not conform to the following regulations of the CN Commercial Neighborhood Zoning District for the site. The project specifically does not conform to the parking requirements

### COMMENTS FROM OTHER DEPARTMENTS/DIVISIONS AND AGENCIES

**Preliminary Comments.** Attached are memorandum(s) from other departments/divisions and outside agencies as indicated below. These comments are preliminary and are intended to notify you about potential requirements for development. As required, comments contained in the attached memos shall be incorporated into the revised plan sets. Concerns about any of these issues should be brought to my attention so that I can coordinate with appropriate City staff on your behalf.

- ESD, Fire, Building

### PROJECT DESIGN COMMENTS

As proposed, the project design raises some concerns. I would like to work with you to resolve the following issues so that I can ultimately make a recommendation to approve your project.

**Plan Revisions.** Please resubmit six set(s) of revised plans and two 11 x 17 plan sets as part of your next submittal.

**Rear Patio/Outdoor Area.** Currently there appears to be an outdoor patio located on the rear of the Moose Lodge that is fenced off. It is not entirely clear whether this area was legally constructed. It also cuts off through access on the rear of the shopping center, which is problematic. It will need to be clarified that no cross access in this area is required in order for this area to be legalized.

**Parking/Legal Non-Conforming Issues.** There are a number of issues for the proposal that will be detailed below.

*Parking Requirement Calculation for Proposed Use:* The calculation for the required parking for the new restaurant/Moose Lodge does not appear to be done correctly. The parking requirement for the restaurant use is 1 space per 2.5 seats or 1 space per 40 square feet of dining area, whichever is greater. A fully dimensioned seating plan needs to be provided for the restaurant in order to determine the amount of parking required for this use. The Moose Lodge is considered to be a private club, which has a parking requirement of 1 per 200 square feet of area designed for meeting. Please dimension the main meeting room to determine what the parking requirement is. The 1 per

400 parking ratio does not apply to the Moose Lodge. The Lodge did not exist on the site until 1974 and at that time, the parking ratio was 1 per 200.

*Parking Requirement Calculation for Existing Uses:* Section 20.90.210 (Change in Structure or Use) of the Zoning Code does allow for use commenced or buildings constructed prior to November 10, 1965 to continue to park at their grandfathered ratios assuming any changes in use do not result in a 40% increase in parking demand. Based on the 1964 Zoning Code the parking requirement for Rite Aid and the Bank of the West would be 1 per 400 gross square feet. Not based on the net square footage (85% of gross) that current parking requirements are based on. Based on this calculation, the 21,123 gross square foot Rite Aid building would have a parking requirement of 53 parking spaces (not 45, as noted) and the 5,000 gross square foot Bank of the West building would have a parking requirement of 13 spaces (not 11, as noted).

*Impact of Required off-site Parking:* The act of putting required parking for a use on an adjacent is effectively changing/intensifying the use on the site. As stated in Section 20.90.210 of the Zoning Code, any new use that results in more than a 40% increase in the parking demand on the site, based on current code, must conform to current parking standards. Under current code, the Rite Aid would have a parking requirement of 90 parking spaces. If a required off-site parking arrangement would create a demand of more than 36 parking spaces (40% of 90), the site itself would be required to park at current code requirements. Same with the Bank of the West site (current demand 17 spaces - 40% would be demand of more than 6 spaces). Based on this, any proposed new use on the site could not result in a parking demand of more than 53 spaces total. Alternatively you may want to evaluate how much excess parking there may be based on current code requirements.

## SCHEDULE

The decision to approve, deny, or conditionally approve this proposal will occur at a Director's Hearing. These public hearings are held every Wednesday of the month, except for the first Wednesday of each month. At the time of resubmittal, you should anticipate at least two weeks for Staff to review the revisions. If the project is deemed ready for hearing, a 23-day lead time is needed between preparation of a notice and the public hearing date. The Director's Hearing for the project will typically be about five to six weeks from the submittal of a complete package (plans and all application requirements). You should keep in mind that the environmental review must be complete before the hearing.

## CONCLUSION

Based on the parking deficiencies outlines above it is unlikely that the project as proposed could move forward with a recommendation for approval. I suggest you may want to withdraw these applications or come back with a revised proposal that conforms to the parking requirements of the Zoning Code. Please be advised that this summary does not constitute a final review. Additional comments may be necessary upon review of additional information and plan revisions submitted in response to this letter. In addition, the project may be subject to the City's standard conditions, such as underground on-site utilities, providing any needed street trees, securing a City grading permit, cleaning public streets during construction and the like. You may also want to contact the Pacific Energy Center at (415) 973-2277 and the Pacific Gas and Electric Design and Implementation On-call Advisor at (408) 494-1700 for information about energy conservation for your project. These resources provide design/technical support as well as information on financial incentives for energy-efficient systems.

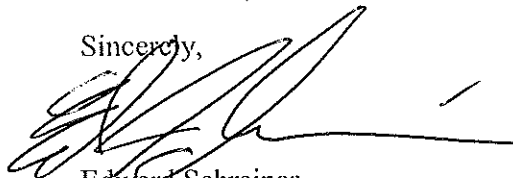
Please be aware that additional fees may be assessed at a later date. Fees for community meetings, for additional public noticing requirements, and for other processes/reviews included in the adopted fee schedule may be applicable to this proposal. I will inform you as soon as any of these fees would be applicable. The project will not be brought to hearing and may be deferred until all fees have been paid in full.

In order to facilitate the development review process, please include a cover letter with your resubmittal that addresses all items contained in this letter and attached memos.

If you have any questions regarding the information contained in this letter, please feel free to contact me via e-mail at [edward.schreiner@sanjoseca.gov](mailto:edward.schreiner@sanjoseca.gov) or to give me a call on my direct line at 408-535-7845.

I will be contacting you in the next week to discuss this letter and any changes to the timeline. We should have a very productive discussion if we are both prepared to address the points in this letter and any additional concerns you may have identified.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Schreiner', with a long horizontal line extending to the right.

Edward Schreiner  
Project Manager

Attachments



JAN 27 2009

## Memorandum

### ENVIRONMENTAL SERVICES (ESD)

**TO:** Edward Schreiner  
Department of Planning,  
Building, & Code Enforcement

**FROM:** Junko Vroman  
Environmental Services

**SUBJECT:** Response to Development  
Application

**DATE:** Staff Review Agenda  
January 22, 2009

**APPROVED:** *Junko Vroman* **DATE:** 1-26-09

PLANNING NO.:	SP09-001 & SP09-002
LOCATION:	east side of Meridian Avenue approximately 300 feet south of Hamilton Avenue
DESCRIPTION:	Special Use Permit to allow an off-site shared-parking agreement
APN:	42946017

ESD received the subject project and is submitting the following conditions and comments. Questions regarding these comments may be directed to the program contact given or to me at (408) 975-2579.

#### Source Control

The proposed facility must conform to the City of San Jose (City) industrial waste discharge regulations<sup>1</sup>. Any non-domestic wastewater discharge into the sanitary sewer system will require Source Control staff to review and approve the final plans. Such review will include sizing of grease traps and interceptors.

Contact Environmental Engineering staff at (408) 945-3000, if you have questions.

<sup>1</sup> In accordance with the San Jose Municipal Code, Chapter 15.14 - Industrial Waste Discharge Regulations



# Memorandum

To: Edward Schreiner

From: Du Lam

RECEIVED

JAN 22 2009

SUBJECT: FINAL RESPONSE TO      DATE: 01/22/09  
DEVELOPMENT APPLICATION

CITY OF SAN JOSE  
DEVELOPMENT SERVICES

Re: Plan Review Comments

PLANNING NO:      SP09-001

DESCRIPTION:      Special Use Permit for to allow an off-site shared-parking agreement

LOCATION:      east side of Meridian Avenue approximately 300 feet south of Hamilton Avenue

ADDRESS:      east side of Meridian Avenue approximately 300 feet south of Hamilton Avenue  
(1580 HAMILTON AV)

FOLDER #:      09 001308 DV

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix B, and Appendix C of the 2007 California Fire Code with City of San Jose Amendments (SJFC). **Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.**

This project has not been reviewed for code compliance for fire apparatus access and fire flow requirements, since all the buildings are existing (no new construction).

If there is an existing sprinkler system per building, the spaces shall be addressed as suites, not as individual street numbers.

Du Lam

Associate Engineer

Bureau of Fire Prevention

408-535-7711

## BUILDING CODE ISSUES, PRELIMINARY REVIEW

**DATE:** 01/21/09

**TO:** Edward Schreiner  
**FROM:** Olivier Baviere

Re: Building Division Comments

PLANNING NO: SP09-001

DESCRIPTION: Special Use Permit for to allow an off-site shared-parking agreement

LOCATION: east side of Meridian Avenue approximately 300 feet south of Hamilton Avenue

ADDRESS: east side of Meridian Avenue approximately 300 feet south of Hamilton Avenue  
(1580 HAMILTON AV)

FOLDER #: 09 001308 DV

The Building Division review is limited to general compliance with the 2007 California Building Code. This review should not be construed as a comprehensive plan check review that is required by the Building Division before obtaining building permit. This review is only intended to assist the designer toward preparing more detailed plans in obtaining building permit.

The designer/owner is strongly encouraged to seek a joint meeting with The Building Division and The Fire Department to resolve any Code issues that might exists at this time.

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|----|---|
| 1. | The project description does not indicate if any work is proposed. If the parking is re-striped, then a building permit is required. The review of the plans will address the distribution of the accessible parking, the path of travel from one building to another on the site, and the path of travel from the public way to the buildings. |
|----|---|

Olivier Baviere  
Building Division  
Department of Planning, Building, and Code Enforcement  
(408) 535-7734      olivier.baviere@sanjoseca.gov